



Memorandum

TO: Planning Commission
SUBJECT: SEE BELOW

FROM: Joseph Horwedel
DATE: September 23, 2013

SUPPLEMENTAL

SUBJECT: General Plan Amendment request to change the Land Use/Transportation Diagram designation from Residential Neighborhood to Mixed Use Neighborhood and a Conventional rezoning from County to RM Multiple Residence on a 0.89 gross acre site to allow the construction of a Residential Care Facility for the Elderly.

Location: Undeveloped property on the west side of Thornton Way, approximately 260 feet northerly of Maywood Avenue (APN 282-06-024).

REASON FOR SUPPLEMENTAL

This Supplemental memorandum addresses comments received on the Mitigated Negative Declaration (MND) prepared for the proposed General Plan Amendment and Rezoning request (File nos. GP13-006 and C13-026). As detailed below, responses are provided for each comment. The Mitigated Negative Declaration complies with the California Environmental Quality Act (CEQA).

BACKGROUND

The draft Initial Study and Mitigated Negative Declaration (IS/MND) for the project was prepared and evaluated in compliance with the requirements of CEQA. On August 19, 2013, the Director of Planning, Building, and Code Enforcement circulated the draft IS/MND for a 30-day public review through the State Clearinghouse in conformance with the requirements of CEQA. The public comment period for the draft IS/MND ended on September 18, 2013. The City received eleven comments (attached) during the public comment period:

- A. Letter from Karen L. Bowman, dated September 16, 2013 (hand delivered).
- B. E-mail from Aimey Chess-Chavez, dated September 17, 2013.

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- C. Letter from Esequiel Garcia, dated September 16, 2013.
- D. Letter from Rose Garcia, dated September 16, 2013.
- E. Letter from Randi Kinman, dated September 18, 2013 (via e-mail).
- F. Letter from Penelope Martell, dated September 13, 2013.
- G. Letter from Merry Quittner, received August 29, 2013.
- H. Letter from the Board of the Sierra Crest Homeowner's Association, dated September 18, 2013.
- I. Letter from Dawn S. Cameron, County of Santa Clara, Roads and Airports Department, dated September 4, 2013.
- J. Letter from Roy Molseed, Santa Clara Valley Transportation Authority, dated August 21, 2013.
- K. E-mail from Karen L. Bowman, dated September 20, 2013.

The City is acting as the Lead Agency for this project as defined by CEQA. The draft Mitigated Negative Declaration (MND) and Initial Study is available at:

<http://www.sanjoseca.gov/index.aspx?nid=2165>.

ANALYSIS

The following analysis includes the public comments on the IS/MND and staff responses to each comment as they relate to the potential environmental impacts of the project under CEQA. All public comments and staff responses are included in this supplemental memorandum (below), with each numbered comment corresponding to the applicable section of the comment letter (attached).

A. Letter from Karen L. Bowman, dated September 16, 2013

Comments on pages 1-3 pertain to the specifics of the Zoning and General Plan Amendment that are not related to the draft Initial Study and Mitigated Negative Declaration. These comments will be addressed separately at the Planning Commission hearing.

A.1 Comment: The staffing numbers represented in the Initial Study seem to be underestimated.

Response: The IS/MND describes the assisted living facility in terms of units with a total of 80 beds (reduced from the original 81), which represents 80 residents. The anticipated operator of the proposed assisted living facility is Eskaton, an established nonprofit organization that provides assisted living services for the elderly throughout Northern California. Information on the number of employees was obtained from Eskaton that indicated that the facility will have three shifts: a morning and evening shift with up to 10 employees per shift and one overnight shift with 2-3 employees present. There will be one major shift change between 2 p.m. and 3 p.m. when the morning and evening shifts switch and up to 25 employees may be present on site.

A.2 Comment: The number of parking spaces proposed is inadequate to serve the project.

Response: Under the California Environmental Quality Act (CEQA), the lack of parking is not considered an environmental impact. However, the amount of parking was determined based on the requirements of the City's Zoning Ordinance (Section 20.90.060). Per the "Residential care or service facility" use in Table 20-190 (Parking Spaces required by Land Use), the following parking requirements apply to the project:

- 1 space per first 6 client beds;
- 1 additional space for up to 4 client beds (or portion thereof) above the first six;
- 1 additional space for each additional four client beds (or portion thereof);
- 1 space for each employee or staff member

Based on the City's requirements, the project requires 20 spaces for the residents and 20 – 25 spaces for staff members, for a total of 40 – 45 required parking spaces. Based on these requirements, the project exceeds the City's parking requirements for a residential care facility since 46 spaces are provided.

A.3 Comment: The proposed fire lane along the western and southern property lines violates the City of San Jose Fire Department regulations.

Response: The cited regulation applies to properties that are located on dead end roads more than 150 feet from a through road. No turnaround is proposed for the project because the fire lane will allow fire trucks to use the mini-storage driveway to access the site from the north and circulate around the rear and southern boundary of the project back to Thornton Way. Specific design requirements (i.e. bollards and specifications for landscaping within the fire lane) will be addressed at future development permit stages.

For the purposes of CEQA, the conceptual fire access is sufficient and does not represent an environmental impact since the project will be required to comply with all San Jose Fire Department standards prior to project approval.

A.4 Comment: A four-story building adjoining a neighborhood of single-family homes will degrade the aesthetics of the adjoining neighborhood.

Response: As described on page 14, the IS/MND acknowledges that the project will alter the existing visual character of the site by introducing a new two to four-story structure on a vacant site. However, the IS/MND concludes that this change would not substantially degrade the existing visual character of the area based on the following: 1) location within an urban area consistent with surrounding residential and commercial uses, 2) providing a 30 foot building setback from the south property line that adjoins single family uses, 3) decreasing the roof height to two stories on the south side of the building, 4) providing landscaping, and 5) required conformance to the City's Residential Design Guidelines.

A.5 Comment: The private open space in the residential condos to the north of the project site will be shaded by the proposed four story building outside of the summer months.

Response: The height of the proposed building ranges from 24 feet (on the south) to 54 feet (on the north). In the peak of winter, shadows from the proposed building would extend onto the adjacent condominium property to the north in the afternoon hours. Open space on the condominium property that may be affected by the increase in shade is limited to small porches, balconies, and landscaped areas (including many large trees). As concluded in the IS/MND, this does not represent a substantial increase in amount of shade because the existing trees along the southern edge of the condominium property are similar in height to the proposed building and already partially shade private open space for the residences.

A.6 Comment: States that there are Cooper's hawks, red-tailed hawks, and other special status species in the area that are listed on the Migratory Bird Treaty Act and contests the IS/MND statement that "no special-status species are expected to inhabit the site."

Response: As described on page 19 of the IS/MND (checklist item "a"), trees on the project site may provide temporary nesting habitat for raptors protected under the Migratory Bird Treaty Act. Therefore, Mitigation Measure BIO1 is identified in the IS/MND on page 19 to reduce this impact to a less-than-significant level by either scheduling construction outside of the nesting season or requiring a pre-construction survey for raptor nests by a qualified ornithologist at least 14 days prior to the start of construction activities. Compliance with Mitigation Measure BIO1 will ensure that the project does not impact nesting raptors.

A.7 Comment: The Noise Study in the IS/MND did not evaluate noise from helicopters flying to and from the helipad at the Santa Clara Valley Medical Center.

Response: The Noise Study did not specifically evaluate helicopter noise but did evaluate ambient noise levels which picked up all noise sources present during the noise measurement period, including intermittent helicopter operations. The study found that traffic noise from Highway 17 to the west is the primary source of noise at the project site. In terms of averaged (24-hour) noise levels, the sporadic and relatively short duration of helicopter flyovers is not likely to have a significant effect on the overall noise levels on the project site.

The Noise Study identified specific measures for the construction and operation of the care facility that will reduce interior noise levels to 45 dBA DNL or less, as required by General Plan Policy EC-1.1. These measures are included in the IS/MND under Mitigation Measure NSE1. Although these measures are primarily intended to mitigate traffic noise, they will also reduce interior noise levels resulting from intermittent helicopter over flights.

With regards to notification of the County Airport Land Use Commission (ALUC), the project is not located within an Airport Influence Area and therefore the ALUC is not required to conduct a formal review. However, a link to the IS/MND was e-mailed to Mr. Connelly of the ALUC and a copy of the document was forwarded to Caltrans as part of the State Clearinghouse review of the document. If Caltrans determines that a project will have

potential to impact helicopter flight paths, it would be forwarded to the Caltrans Aeronautics Division for review. No comments were received from Caltrans as part of the State Clearinghouse review of the project.

A.8 Comment: The project would result in a significant increase in population density in the area as the residential population density of the site will be significantly higher than the surrounding condos and single-family neighborhoods.

Response: Although the project would increase the population of the project site (the population is zero since the site is vacant), the project will not induce population growth for the following reasons:

- a) The project is an infill development surrounded by existing development where the full range of urban services is available.
- b) The project is located within an area of the City designated for residential population in the General Plan, and the proposed General Plan Amendment will be consistent with population growth anticipated in this area of San Jose.

A.9 Comment: The IS/MND statement that there will be no traffic impact resulting from the project is wrong due to existing cut-through traffic on Thornton Way and lack of adequate visibility for cars exiting the site.

Response: The IS/MND concludes that the project would have a less-than-significant impact on the transportation levels of service in the project area based on the City's Transportation Level of Service Policy (City Council Policy 5-3). The City's Transportation Level of Service Policy measures and defines impact only at the signalized intersections in the vicinity of the project during the peak travel periods of 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m.

The project would generate an estimated 215 daily vehicle trips, comprising 11 morning peak hour trips and 18 evening peak hour trips, based on the Institute of Transportation Engineer's (ITE) trip generation rates for assisted living facilities. The ITE rates represent the anticipated number of trips generated by a specific use and are based on data from similar facilities around the U.S., and include typical trips generated by residents, staff, deliveries, and visitors. Although the project would add traffic to/from the site, the minimal increase in peak hour trips would not cause a Level of Service impact to the surrounding signalized intersections.

Speeding on Thornton Way

The speed of pass through traffic on Thornton Way is not a result of the proposed project and is not an environmental impact analyzed under CEQA. Speed limits and stop signs are enforced by local law enforcement. Speeding and cut through traffic are considered existing conditions and typically new developments are not responsible for addressing exiting conditions.

Visibility for vehicles exiting the project site

There are many residential streets in San Jose where driveways are located along slopes and/or horizontal curves. Along Thornton Way north and south of the proposed site, stop controlled intersections are located at Thornton Way/Enborg Lane and Thornton Way/Maywood Drive which provide sufficient gaps in the vehicles traveling along Thornton Way for safe driveway operations and slower traffic. Final driveway design for the project will be subject to review by the City's Department of Public Works at the development permit stage to assure that vegetation, signage, and parked vehicles do not compromise visibility for drivers exiting the site.

A.10 Comment: 1) How do you know how many residents you will have? And of those residents, how many will have driver's licenses and cars? 2) How many employees will be traveling to/from the site, including staff that come and go in the middle of the night? 3) How many visitors will come to the site? 4) How many trips will be generated by visiting health care professionals? 5) How many emergency vehicles will come to the site? Where will they park? 6) How many vendors or other delivery trips will the project generate, including moving vans, food delivery, medical supplies, garbage, and shuttles? 7)

Response: The project is projected to have a maximum of 80 residents (see response A.1, above), most of whom are assumed to not own a car or have a driver's license according to the ITE Trip Generation tables for assisted living facilities .

As discussed in the response to Comment A.9, the number of auto trips generated by the project is estimated to be about 215, including trips by residents, delivery vans, staff, shuttles, and visitors. This traffic is not anticipated to result in a significant impact to traffic since the traffic generated during the peak hours is not sufficient to degrade the Level of Service of nearby signalized intersections. Late night shift changes for employees, deliveries, emergency vehicles, and visitors outside of the peak hours are not considered significant for the purpose of evaluating traffic impacts under CEQA.

Specific details about operations, including loading procedures for delivery vans and shuttles, will be addressed at the later development permit stage, and approval of any future permit will be subject to standard permit conditions to reduce noise impacts on neighboring properties.

A.11 Comment: The existing trees on the site have historical value and should be preserved for their habitat value and their value to the neighborhood.

Response: None of the trees on the project site are identified as heritage trees in the City's Heritage Tree List, nor on any Heritage Tree List for the County of Santa Clara. The condition of the trees is based on the professional opinion of the arborist. Due to the design of the site and the emergency vehicle access around the rear and southern property lines (the "fire lane"), all trees are proposed to be removed as part of the development of the site, with a total of 15 ordinance-sized trees to be removed. As identified in the Biology section of the IS/MND, the project must replace all trees to be removed from the site at ratios based on the

size and type of tree. Replacement trees that cannot be replanted on site (i.e., due to insufficient space) can be planted on alternative sites or money donated to Our City Forest in-lieu of some replacement trees.

A.12 Comment: A large metal storage tank existed on the site for years, and has not been accounted for the in Phase I Environmental Site Analysis.

Response: No records were found to indicate the contents of the metal storage tank that existed on the site. Given the history of the site as former orchard land, it is possible that the tank may have contained pesticides at one time. Mitigation Measure HAZ1 will require soil testing prior to ground disturbance to determine if residual pesticides or other hazardous materials are present on the site. If soil contamination is found above applicable levels, a Soils Management Plan (SMP) will be required for the safe removal and disposal of contaminated soils.

A.13 Comment: The developer has not filed plans for a Conditional Use Permit which include floor plans, landscaping, or a utility plan. If these plans differ from those in the IS/MND, then the IS/MND is inaccurate.

Response: The IS/MND was prepared based on the project description at the time of preparation and public circulation. Changes to the project, including design, land use, or changes in the intensity of the proposed project (i.e., an increase in the number of residents) will require additional environmental review.

B. E-mail from Aimey Chess-Chavez, dated September 17, 2013

B.1 Comment: No signs were put up on the property per San Jose's Outreach Policy 6-30 until August 28, 2013, which was a week after the public meeting concerning the project. Residents in the area were not informed that the project was being proposed.

Response: Noticing, including the posting of the on-site sign and the mailing of notices for the community meeting and the public hearings complied with the City's Outreach Policy 6-30. Furthermore, the public review of the draft Mitigated Negative Declaration (MND) complied with Section 21092(b)(3) of the 2013 CEQA Guidelines because:

- 1) The draft MND was recorded at the County of Santa Clara Recorder's Office and posted for a period of 30 days.
- 2) Notice was published in the Post Record, a newspaper of general circulation.
- 3) A link to the IS/MND document was posted to the City's Internet site.
- 4) Attendees at the community meeting on August 20, 2013 were notified of the availability of the IS/MND and the public comment period.

B.2 Comment: The project is over 80 units per acre, which violates the General Plan policy to protect existing neighborhoods. The project is in between a multi-unit complex that is 20 units per acre and single family homes zoned for 1-8 unit's per acre.

Response: This is not a CEQA issue, since it does not address any specific environmental impact. A Residential Care Facility is consistent with the proposed Mixed-Use Neighborhood General Plan designation. Comments related to the appropriateness of the Mixed-Use Neighborhood General Plan designation and/or the Residential Care Facility are project-related issues that will be addressed separately.

B.3 Comment: The project requires multiple support staff in addition to residents that will generate excessive traffic and parking.

Response: Please see the response to comments A.9 and A.10, above, for a discussion of traffic. Based on trip generation rates for Residential Care Facilities, the project will not generate enough traffic to degrade the Level of Service for nearby signalized intersections, and therefore is not considered a significant environmental impact.

B.4 Comment: The design requires a driveway from a basement garage on a curve.

Response: This statement does not address a specific environmental impact under CEQA. For a discussion of safety and access issues, please see the response to comment A.9 under the heading "visibility for vehicles exiting the project site."

B.5 Comment: The design does not account for delivery vehicles or emergency personnel/vehicles.

Response: The design and site layout will accommodate emergency vehicle access by providing a fire lane around the rear and south side of the proposed building. Specific requirements for emergency vehicle access will be addressed at the development permit stage, and will have to be complied with in order to secure project approval (see the response to comment A.3).

B.6 Comment: We already have an existing excessive traffic problem on Maywood Ave as well as surrounding streets including Thornton Way. It is nearly impossible to leave or enter one's driveway during commute hours or sometimes in the middle of the afternoon. The hospital employees, visitors and commuters speed and use Maywood/Thornton as a cut through daily. If you will notice we are just off the major thoroughfare of Bascom Avenue, so we have more than our fair share of traffic which is not ideal for health or peaceful living or our property values.

Response: As discussed in the response to comments A.9 and A.10, above, the number of new trips anticipated to be generated by the project will not constitute a significant environmental impact based on the City's Level of Service Policy.

B.7 Comment: Also, there is the matter of the HeliPad at Valley Medical Center. A four story building would leave less air passage options for landing and departing helicopters which would then cause the resulting disruptive and cacophonous air traffic to be less evenly dispersed, therefore, unduly creating more noise and disruption for parts of the neighborhood.

Response: There is no evidence that the proposed four-story building will disrupt helicopter flight paths to and from the helipad at the Santa Clara Valley Medical Center. The helipad is located on top of a four story building that is located within a complex of buildings of up to seven stories in height. Given that the helipad is located more than 1,700 feet to the northeast of the project site at a height greater than the maximum height of the proposed structure (maximum height of 54 feet), the proposed structure is too low to influence helicopter flight paths. Furthermore, existing trees, wireless communications facilities, and power lines in the vicinity of the project site already require helicopters to fly at a higher altitude over the project site. With regards to noise impacts from overflying helicopters, please see the response to comment A.7, above.

C. Letter from Esequiel Garcia, dated September 16, 2013.

C.1 Comment: No signs were put up on the property per San Jose's Outreach Policy 6-30 until August 28, 2013, which was a week after the public meeting concerning the project. Residents in the area were not informed that the project was being proposed.

Response: Please see the response to comment B.1, above.

C.2 Comment: The project is over 80 units per acre, which violates the General Plan policy to protect existing neighborhoods. The project is in between a multi-unit complex that is 20 units per acre and single family homes zoned for 1-8 unit's per acre.

Response: Please see the response to comment B.2, above.

C.3 Comment: The project requires multiple support staff in addition to residents that will generate excessive traffic and parking.

Response: Please see the response to comment B.3, above.

C.4 Comment: The design requires a driveway from a basement garage on a curve.

Response: Please see the response to comment B.4, above.

C.5 Comment: The design does not account for delivery vehicles or emergency personnel/vehicles.

Response: Please see the response to comment B.5, above.

C.6 Comment: The design does not account for any loud noise due to delivery vehicles. If the delivery trucks arrive in the early morning hours the noise caused by them will disturb existing neighbors.

Response: The operational characteristics of the project, including the timing of deliveries, will be addressed at the development permit stage.

D. Letter from Rose Garcia, dated September 16, 2013.

Comment letter is the same as that submitted by Esequiel Garcia, dated September 16, 2013. Therefore, please refer to the response to comments C.1 through C.6 in response to these comments.

E. Letter from Randi Kinman, dated September 18, 2013.

Comments on the City of San Jose Outreach Policy, the General Plan Amendment, and Pre-Zoning in the first three pages pertain to specifics of the project that are not CEQA issues. The comments and responses below only address comments that were made on the IS/MND.

E.1 Comment: (Mitigation Measure NSE1)

- All windows in living spaces on north, west and south facades to be maintained closed at all times but third bullet states windows should be sliding panels. Does this mean windows “can” open in living spaces or is the “sliding window” portion on non-living areas (i.e. community rooms). Since this is a proposed senior facility with the common areas considered shared living areas, does the “closed at all times” requirement apply to all common areas? Failure to have securely closed (and unable to open) windows throughout all common areas results in no mitigation.
- What is the basis for allowing noise intrusion on the east side? Is there modeling or data that shows the noise will not reach unacceptable levels?
- It would appear that a closed system is required for air circulation in areas where “closed windows” are in affect, but is this system tied into, or does this system cross connect with areas that are not closed? If so, there would be virtually no mitigation in place.

Response: Please refer to the Noise Assessment provided in Appendix D of the IS/MND for more detailed discussion of the project’s noise impacts and identified mitigation. Although Mitigation Measure NSE1 specifies that windows shall be maintained closed for noise control, the windows will still be operable so residents will have the choice of opening the windows if they wish.

Indoor noise control requirements

The noise control requirements apply to the residential living spaces and the indoor community rooms or common spaces, including those on the first floor. The outdoor common open space for the project will be located within a courtyard and will comply with the City’s noise requirement for common outdoor spaces since the building will act as a

buffer between the space and traffic noise on Highway 17 (see Figure 1 of the Noise Study in Appendix D).

Noise control from the east side (Thornton Way)

Mitigation Measure NSE1 does not propose any special mitigation measures for the east side of the building since Thornton Way is not a significant source of traffic noise (i.e., the noise generated by traffic on Thornton Way does not exceed the City's noise standards, unlike traffic on a high speed, high volume freeway like Highway 17). Furthermore, the building as designed will shield units facing the interior courtyard from the noise from Highway 17 without the need for additional noise mitigation (see Figure 1 of the Noise Study in Appendix D)

Mechanical ventilation

The specifications of the mechanical ventilation system are determined by the mechanical engineer and will be developed and finalized at the building permit stage. The ventilation system must be designed so that the acoustical integrity of the building shell is not compromised, as required by building code and Mitigation Measure NSE1.

E.2 Comment: Noting the noise impacts of the freeway does not include the impact of particulates and toxins produced by the freeway. How is proximity to the pollution produced by the freeway mitigated?

Response: A Community Health Risk Assessment (HRA) was prepared for the project to address the potential impacts from emissions generated by Highway 17 on the facility's occupants (see pages 18-20 of the IS/MND and Appendix A). The study concluded that the health impacts from toxic air contaminants from Highway 17 and other sources would be below the significance thresholds established by the Bay Area Air Quality Management District (BAAQMD) and would, therefore, be less-than-significant.

E.3 Comment: This project represents an at risk population that would be severely compromised during a power outage. Is there a back up generator proposed?

Response: The project applicant does not propose to include a back-up generator at this time. If a back-up generator is provided, it will be required to comply with the appropriate building and electrical codes as well as any BAAQMD requirements pertaining to air quality.

E.4 Comment: Population impacts. What would trigger a significant increase in population? The proposal increases the population on this site from zero to 115 residents with support staff.

Response: See response to comment A.8, above. Although the project will result in an increase in population on the project site (the site is vacant), it will not induce further population growth. Furthermore, the maximum population of facility is proposed to be 80 residents, not 115 (see response to comment A.1).

E.5 Comment: The MND lists Line 29 as a service line for bus transit yet VTA has no Line 29 listed online. Is this old information? Is the transit available that would allow shift workers to actually use transit?

Response: The MND listed the wrong bus line. The nearest VTA bus line to the project site is corrected to Line 25. This line extends from DeAnza College to Alum Rock Transit Center via VMC, and runs along Thornton Way in the project area with connections along the route. Given its proximity to the project site, employees at the proposed facility would have easy access to bus transit.

E.6 Comment: The staffing ratios appear to be off. While the mandatory resident/staff ratio is low based on the proposed use, the reality is that the auxiliary staffing would be much higher. While the developer stated at a public meeting that 20 staff members would be on site, the CUP lists kitchens (2), dining rooms (2), offices, medical dispensaries, laundry, and memory care facilities that would imply far greater numbers of staff (not including maintenance). This significantly impacts the ability to park all residential and visitor needs on site.

Response: Please see response A.1 for a description of the staffing requirements for the project. According to the applicant, the facility will have three shifts: 10 employees for each morning and afternoon shift and 2 -3 employees for the overnight shift. This will result in a maximum of 20 - 25 staff on the premises during the shift changeover between the morning and evening shifts, which would occur around 2 p.m. to 3 p.m. With regards to the adequacy of parking, the project will provide parking in compliance with the City's Zoning Ordinance (see response A.2). Furthermore, the adequacy of on-site parking is not currently an environmental issue assessed under CEQA.

E.7 Comment: The proposed change in zoning from residential neighborhood to mixed use residential is inconsistent with the surrounding area and inconsistent with Envision 2040 goals.

Response: Comment noted. This is a project issue and not a comment related to the environmental impacts analyzed under CEQA.

E.8 Comment: Memory units in senior housing require more staffing and assistance than standard assisted living units; how is this accounted for?

Response: The number of employees working with the memory care residents is accounted for in the total employee numbers for the project (see response A.1 for a discussion of employee numbers).

E.9 Comment: The assumption in paragraph 4 on page 36 "...the proposed assisted living facility will accommodate elderly residents that require medical assistance and would minimize the generation of traffic and related noise compared to other types of residential or healthcare uses..." is inconsistent with the fact that these facilities generate considerably

more calls for service by EMT and fire in comparison with other residential uses. It also ignores the mandatory and auxiliary staff traffic, delivery vehicles and garbage trucks.

Response: Please see response A.9 for a discussion of traffic generated by the project. Trip generation numbers for the project are based on information from the Institute of Traffic Engineers, and account for all trips to the site (residents, employees, visitors, deliveries, etc.).

E.10 Comment: As a senior facility that assists in medical care, there will be production of biohazard waste material (i.e. syringes, catheters) that is not accounted for in the application or analysis. Would this be addressed in the mitigated neg dec or elsewhere?

Response: Biohazard waste material will be limited to sharps and similar items and will be disposed of using an authorized disposal service in accordance with all legal requirements. This would not create a significant hazard to the public as the project will be required to comply with standard biohazard disposal procedures.

E.11 Comment: See comments in the zoning portion. This MND is based on a CUP that has not been submitted in full, which means the underlying assumptions could be completely different based on an entitled zoning.

Response: Please see the response to comment A.13 for a discussion of the environmental review of changes to the project.

E.12 Comment: The MND is based on “housing” but fails to note closest schools as required in a strictly housing proposal. The proposal is a mix of both housing and institutional and should be regarded as both. If this is “housing” then items like the parking ratio should comply with “housing”; if it is an institution, the parking can be amended.

Response: The purpose of the General Plan Amendment is to facilitate the construction of a Residential Care Facility for the Elderly (RCFE). Therefore, the environmental impacts evaluated under CEQA assumed a residential care facility and not a typical multi-family residential development (such as condos). If the project changes to become a purely residential project (i.e., residences without the in-house care facility), additional environmental review would be required.

F. Letter from Penelope Martell, dated September 13, 2013.

F.1 Comment: A through study of raptor nesting areas through the seasons should be completed BEFORE any construction is sanctioned. In the past, there were also owls.

Response: Mitigation Measure BIO1 requires that construction activities either avoid the nesting season or conduct a pre-construction survey at least 14 days (January to April, inclusive) or 30 days (May to August, inclusive) prior to the start of construction. These are standard mitigation measures to ensure that impacts to raptors and other migratory birds are

minimized. Pre-construction surveys are not appropriate at the time of development approval since the time period between project approval and the start of construction activities may be several months (or longer), and conditions on the site may change (i.e., raptors may roost in between the time when the project is approved and the start of construction).

F.2 Comment: “The project will not have a significant impact on transportation or traffic, therefore no mitigation is required.” Not true. Depending on the size of the project, traffic will be impacted in some way. Since there is the possibility of Residential Care Facility, per the Public Notice circulated on August 19, 2013, “no impact” cannot be determined at this point. There will be an increase in delivery (groceries, linen service, medical equipment & supplies, etc.), garbage, emergency, Outreach, site-owned transportation, maintenance vehicles, etc. coming into the neighborhood. So, yes there will be an impact since all vehicles will come down part or all of Thornton Way at some point.

Response: Please see the response to comment A.9, above. For the purposes of CEQA, a project is defined as having a “significant” impact to traffic if it does not comply with the City’s intersection Level of Service policy. A project is not deemed to have a significant traffic impact simply because it adds additional vehicles onto the roadway network, there has to be a measurable reduction in intersection Level of Service before the traffic impact can be considered significant. Based on the number of trips projected for the project, the number of trips will not be sufficient to impact the intersection Level of Service for adjacent intersections. Trip generation numbers used in the Initial Study are based on the Institute of Traffic Engineers trip generation tables for assisted living facilities, which account for all traffic to and from the site, including deliveries, residents, visitors, etc.

F.3 Comment: The street curves significantly, numerous drivers don’t regularly obey the speed limit (15 mph on the curve), there is a large storage facility sign, cars are usually parked just on the other side of the storage driveway, and folks enter and exit the Valley Medical Center parking lot on the opposite side of the street. There re also large numbers of walkers from the Valley Medical Center, Della Maggiore School, and Chandler Tripp School, and all of these will create a bit of a hazard and will have an impact on the neighborhood if the proposed Residential Care Facility goes forward.

Response: Please see the response to comment A.9 for a discussion of the traffic factors such as speeding and adequate visibility for vehicles (and pedestrians) entering the exiting the site. Although there is a lot of vehicle and pedestrian activity in the vicinity, this is an existing condition and there is no indication that the addition of the RCFE will result in a significant degradation of existing traffic conditions because the number of trips anticipated to be generated by the project is not significant when compared with other nearby institutional uses.

F.4 Comment: Parking along the curve will be eliminated for any development, which will move current users of the area down the street in front of the residences. Overflow visitors/volunteers/employees will also be parking in the neighborhood if a Residential Care Facility is developed.

Response: The lack of parking is not an environmental impact evaluated under CEQA. Please see the response to comment A.2 for a discussion of how the proposed facility will comply with the City's off-street parking requirements.

F.5 Comment: There will be a change in air traffic patterns for all of the helicopters who follow the Highway 17 corridor, and turn in to the hospital over this piece of land. The helicopters will need to adjust and go over more of the nearby houses. So, yes, there will be an impact on the neighborhood.

Response: Please see the response to comment B.7, above.

F.6 Comment: Tree Report indicates size and placement of all of the trees, but does not take into account that many of these trees are Heritage Trees, and have been in place for over 60 years.

Response: Please see the response to comment A.11, above. The trees are not on the County of Santa Clara's Heritage Tree list.

F.7 Comment: Interview documentation...the question about storage tanks is unanswered. There was a storage tank on the property for many years, and it even appears on the 2013 Google Map. Since it is unknown what it held, perhaps a more detailed soil sampling effort is needed.

Response: Please see the response to comment A.12. Mitigation Measure HAZ1 will require soils testing prior to site disturbance to determine if hazardous substances are present.

G. Letter from Merry Quittner, received August 29, 2013.

G.1 Comment: Comment on driving and speeding on Thornton Way and past auto accidents.

Response: Please see the response to comment A.9 for a discussion of speeding and safety on Thornton Way.

G.2 Comment: Comments on concerns about adding new car trips and the lack of parking in the neighborhood.

Response: Please see the response to comment A.9 regarding the traffic generated by the proposed project and the response to comment A.2 for a discussion of parking requirements.

G.3 Comment: Parking is insufficient to accommodate all trips to and from the site.

Response: Please see the response to comment A.2 for a discussion of parking. Parking is no longer an environmental impact that is evaluated by CEQA.

G.4 Comment: The project will require a change in helicopter flight paths.

Response: Please see the response to comment B.7, above, for a discussion of helicopter flight paths.

H. Letter from the Board of the Sierra Crest Homeowner's Association, dated September 18, 2013.

H.1 Comment: Comment that the proposed four-story building will shade Sierra Crest residences during winter months, potentially leading to Seasonal Affective Disorder (SAD) among residents.

Response: See response to comment A.5, above, which discusses impacts from shade and shadows from the proposed project.

H.2 Comment: Comment states that parking is already scarce in the vicinity of the project site and will be exacerbated by the project.

Response: Please see the response to comment A.2, above, for a discussion of parking.

H.3 Comment: Comment states that traffic along Thornton Way already poses a hazard and that the project will increase these hazards.

Response: Please see the response to comment A.9 for a discussion of traffic generated by the project and traffic safety concerns.

H.4 Comment: Seeks clarification on if the site is gated, and expresses concern about the safety of vehicles exiting the subterranean garage.

Response: According to the applicant, the parking garage will not be gated. Please see the discussion in the response to comment A.9 for a discussion of traffic safety.

H.5 Comment: Comment expresses concern that the project will result in increased traffic along Thornton Way, which would compromise safety.

Response: Please see the response to comment A.9 for a discussion of traffic generated by the project and traffic safety concerns.

H.6 Comment: Construction period dust, noise, and pollution from construction equipment will have a serious impact on the well-being of residents.

Response: Although project construction could last up to 15 months, excavation and heavy construction activities would be limited to period of six months or less. The remaining construction work would be limited to less intense activities including interior improvements. At the development permit stage, the project will be required to implement best management

practices for construction in keeping with the Bay Area Air Quality Management District (BAAQMD). These best management practices include the following:

- All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible.
- Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]).
- Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- A publicly visible sign shall be posted at the site with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

Further discussion of air quality impacts are discussed in the Air Quality section of the Initial Study (pages 16 – 20).

I. Letter from Dawn S. Cameron, County of Santa Clara, Roads and Airports Department, dated September 4, 2013.

I.1 Comment: The Initial Study is unclear as to whether or not Annexation Moorpark 22 will include the County-maintained west half of Thornton Way.

Response: Comment noted. If the annexation does not include the Thornton Way right-of-way, then the applicant will be required to obtain an encroachment permit from the County of Santa Clara at the building permit phase.

J. Letter from Roy Molseed, Santa Clara Valley Transportation Authority, dated August 21, 2013.

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J.1 Comment: The Santa Clara Valley Transportation Authority has no comments on the IS/MND.

Response: Comment noted.

K. E-mail from Karen L. Bowman, dated September 20, 2013.

K.1 Comment: Two appendices to the Phase I Environmental Site Assessment were not provided, the Historical Research Documentation and the Regulatory Records.


Response: The Historic Research Documentation consists of historical aerial imagery to determine previous uses of the site. These photos are attached to this Supplemental Memorandum (Attachment 2).

K.2 Comment: Commenter wants to know what the regulatory record is and where she can read it.

Response: The reference to the Regulatory Records in the Initial Study is in error since no records exist for the subject property since it was never developed.

CONCLUSION

Based upon review and analysis of the comments received during the public circulation period for the Thornton Way General Plan Amendment and Rezoning IS/MND, there is no evidence to indicate that implementation of the proposed project including proposed mitigation measures would result in a significant environmental impact under CEQA and therefore it is appropriate for the City to adopt a Mitigated Negative Declaration for the project.


For JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

For questions please contact David Keyon at (408) 535-7898

Attachments:

1. Public Comment Letters
 - A. Letter from Karen L. Bowman, dated September 16, 2013 (hand delivered).
 - B. E-mail from Aimey Chess-Chavez, dated September 17, 2013.
 - C. Letter from Esequiel Garcia, dated September 16, 2013.
 - D. Letter from Rose Garcia, dated September 16, 2013.

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- E. Letter from Randi Kinman, dated September 18, 2013 (via e-mail).
 - F. Letter from Penelope Martell, dated September 13, 2013.
 - G. Letter from Merry Quittner, received August 29, 2013.
 - H. Letter from the Board of the Sierra Crest Homeowner's Association, dated September 18, 2013.
 - I. Letter from Dawn S. Cameron, County of Santa Clara, Roads and Airports Department, dated September 4, 2013.
 - J. Letter from Roy Molseed, Santa Clara Valley Transportation Authority, dated August 21, 2013.
 - K. E-mail from Karen L. Bowman, dated September 20, 2013.
2. Historic Research Documentation from the Environmental Site Assessment (Appendix C)

Karen L. Bowman
935 and 941 Thornton Way
San Jose, CA. 95128
(408) 995-0529 home (408) 373-3445 cell
makeupcall@aol.com

September 16, 2013

Emily Lipoma, Planner
David Keyon, Environmental Planning
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113-1905

Re: General Plan Designation, Pre-Zoning, and Development of Thornton Way Site

Dear Mr. Keyon and Ms. Lipoma,

First off, I want to apologize for sending you both the same letter. I realize that letters were to be directed to each of you on specific issues. However, as I soon discovered, Mitigated Negative Declaration issues and design and zoning issues became so intertwined that separate letters became almost impossible. So, I am respectfully requesting your patience and expertise in gleaning from this letter the information each of you requires.

I am almost 56 years old, and have lived my entire life at either 935 or 941 Thornton Way, so any information I convey to you is not speculation; it is first-hand knowledge. As an outsider to the San Jose Planning system, I'm only now learning the ins and outs and terminology, so I may occasionally use the wrong term, but I'm sure you'll understand my intent.

Zoning

Per City of San Jose Policy Number 6-30, the proposed development that spurred pre/re-zoning and General Plan Amendment has violated several regulations. The second paragraph of the policy states "the City's policy goes beyond the State requirements for notification of development proposals." I can only assume that the reason for this is because the City takes the notification process very seriously and expects the policy to be strictly adhered to. The following regulations have been violated:

1) The development which will result from re-zoning meets the definition of "Large Development Proposal....more than 50 dwelling units" and therefore should have had public mailing notice to 1,000 feet per Matrix A: Modes of Outreach. ***The developer only sent mailings to a 500 foot radius.***

2) Per Matrix B: Application Types and Special Uses, this zoning request is subject to General Plan Amendment and Residential Care Facility categories both of which require mailings to 1,000 feet. **Again, the developer only sent mailings to a 500 foot radius.**

3) Under the section Process, Modes and Timing "Within ten (10) days of application submittal...a notice should be posted at the property of the proposed development application." The applications were submitted on July 3, 2013 which means a sign had to be posted on the property no later than July 13, 2013. **The sign was not posted until August 28, 2013, almost 7 weeks past the deadline.**

4) Under the section Community Meetings, Modes and Timing "A minimum of two (2) weeks should be allowed for the actual noticing of the community meeting prior to the meeting date to give appropriate notice to the community and ensure a successful opportunity for input and involvement." The community meeting was held on August 20, 2013. **I received my notification letter on August 13, 2013 which was only a 1 week notice (and yes, I have proof).**

Based on these violations of Policy Number 6-30, any General Plan Amendments, pre-zoning or re-zoning should be denied at this time.

Aside from rules and regulations, I want to discuss zoning from a common sense perspective. **Any type of residential zoning may not be the best and most appropriate use for this area based on the following:**

1) There are no schools or parks nearby for families. Any type of high density housing means little or no open (and green) space. Every kid deserves a place to run and play and be a kid, and there's just none here. The closest elementary school is some distance away on the other side of the 6 busy lanes of Bascom Avenue.

2) If an assisted living facility for seniors were built here based on zoning changes, again there isn't even as much as a park for seniors to go to. Even a casual walk down the street would be difficult for someone with mobility issues. Streets are lined with parked cars making it difficult for vehicles trying to get in/out of driveways to see pedestrians. Cars speed well above the posted speed limits (both issues addressed more extensively later). We are an unincorporated county pocket, and as such we do not even have sidewalks in some places. **It would be isolating seniors instead of encouraging an active community life.**

3) The developer has presented to the City a very self-serving and limited view of the actual existing land usage. Yes, there are condos to the north and single story homes to the south, but that's only a very narrow corridor. The site in question is also bordered by the following existing land uses:

- A) Extra Space Mini Storage *(non-residential)*
- B) The Santa Clara County Coroner's Office facility *(non-residential)*
- C) A large methadone clinic *(non-residential)*
- D) A large parking lot for the Valley Medical Center (from here on I'll just call it VMC) which because VMC is expanding again, I strongly suspect will be converted from a traditional parking lot (Photos 11,12, 19) to a multi-level parking garage in the not-too-distant future. *(non-residential)*
- E) Adjacent the above, is the massive VMC complex *(non-residential)*

4) Because of the services that VMC provides to the public, many transients are brought to the hospital by various police agencies for care. Once treated, they are released into the neighborhood. Almost all the residents can tell you stories of being panhandled for money "to get back home," having people urinating and defecating in their front yards, and one woman on Maywood tells the story of coming out to her car one morning to find a homeless person curled up like a cat under her car. We know they come from VMC because they're still wearing their paper hospital bracelets. Perhaps injecting more residents, possibly with small children, into the area and subjecting them to this activity is not a good idea.

5) If any kind of zoning changes occur that allow the building of the senior residential facility, this would not be the "transition buffer" that the developer has presented to the City. Clearly, this is a much greater population density use; far beyond even the condos. In addition, the proposed facility is 1 story taller than the condos. Per Envision 2040, changing zoning and allowing the construction of the proposed senior facility does not seem to be in keeping with the concept of maintaining the character of a residential neighborhood consisting of single story detached homes.

At our meeting with Ms. Lipoma on September 12th, Ms. Martell and myself were advised that the property is actually designated County OA, Office/Administrative. Actually, this is a very good designation. VMC is very much a part of our neighborhood, and as such, we are used to offices. They provide respite from the overcrowding and traffic issues (discussed later) because, generally speaking, they are unoccupied at night, week-ends, and holidays; the times when most residents are at home. The people I've spoken to would welcome offices. ***This zoning in no way prevents the landowner from either selling or developing the property.***

I would also like to point out that all the maps we were shown at this meeting did not show Enborg Lane coming through to Thornton. I assure you it does (Photos 4, 6). Perhaps referring to some more accurate maps when deciding a neighborhood's fate would help in making better decisions.

Mitigated Negative Declaration (MND) Rebuttal

A.1 Chapter 2. Project Description (paragraph 3, page 3) "The facility would employ and estimated 20 workers."

Under the State of California, Residential Care Facilities For The Elderly (RCFE), this staffing estimate seems greatly underestimated. In addition to the long list of required employees, memory care residents require 24 hour supervision.

To further explain, the RCFE states in Section 87307 (D) "Not more than two residents shall sleep in a bedroom." So, let's do some math based on paragraph 4, page 3:

| | |
|--|----------------|
| 4 two-bedroom units (8 bedrooms total) | = 16 residents |
| 35 one-bedroom units | = 70 residents |
| 24 studios | = 24 residents |
| 18 memory care units | = 36 residents |
| total maximum residents | = 146 |

Now, divide those 20 employees over 3 shifts. It's inevitable that 20 employees will not be enough.

A.2 Chapter 2. Project Description (paragraph 5, page 3) "Parking for 46 vehicles would be provided in an underground garage."

At the public meeting on August 20, 2013 it was presented that the developer does not know how many of the residents will bring their cars. From my perspective, that means ***each resident has the right to bring a car***. Then shouldn't the developer have to provide at least 1 parking place per unit (not counting memory care units of course) which would be 63 parking places for just the residents? You still need sufficient parking for employees, visitors, emergency vehicles, and the courtesy van they plan to provide for resident transportation.

The developer cannot plan on using on-street parking for the overflow because there simply isn't any. I have enclosed photos taken on 3 different days at different times of the day to demonstrate this (Photos 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 19, 20) As you can see, there isn't any available on-street parking for probably one half mile in any direction. Photo 19 shows the southwest corner of the employee parking lot directly across the street from the proposed development. This is the farthest parking away from the hospital. Note that the lot is full. As you can imagine, if any closer parking were available, these spaces would be empty.

Any development project, whether it's this project or another, must provide adequate on-site parking. And the determined number of parking spaces must be based on fact, not speculation (e.g. units = parking spaces, 4 one thousand square foot offices cannot use the one office = 1 parking space ratio, a residence with 2+ bedrooms and a \$500,000 mortgage will probably need more than 1 parking space, etc.)

A.3 Chapter 2. Project Description (paragraph 5, page 3)

"A fire lane is proposed along the site's west and south boundary to provide access for emergency vehicles."

This is in direct violation of The City of San Jose Fire Department regulations. "The fire access shall be designed with approved provisions for turning around fire apparatus if the access road dead ends and is in excess of 150 feet. "
(www.sanjoseca.gov/documentcenter/view/12515)

A.4 Chapter 3. Environmental Evaluation, A. Aesthetics (Thresholds per CEQA Checklist table)

1. (c) "Would the project substantially degrade the existing visual character or quality of the site and its surroundings?" Less than significant impact checked.

REALLY???? I think putting a 4 story building with minimal setbacks would definitely degrade the aesthetics of the adjoining area of single story homes.

A.5 1. (e) "Would the project increase the amount of shade in public or private open space on adjacent sites?" Less than significant impact checked.

This 4 story building is taller than the southernmost building of the condos. During the 3 months of summer, there will probably be no shading of the condos, but during the remaining 9 months out of the year when the sun is further to the south, the residents of the condos will not get any direct sunlight.

A.6 Chapter 3. D. Biological Resources , Setting (paragraph 3, page 20)

"No special-status species are expected to inhabit the site."

Wrong. There are Cooper's Hawks, Red-tailed Hawks, and owls in the area. In fact, VMC had to post signs on Enborg Lane warning employees to cover their heads while walking in the area. Many employees had to be seen in the VMC Emergency Room to have stitches a result of these birds attacking during nesting season. As all 3 of these species are listed on the Federal Migratory Bird Treaty Act, a proper study by Fish and Game officials should be done to determine impact.

A.7 Chapter 3. L. Noise (page 37)

This parcel has some unique issues with regard to noise. Because of its close proximity to VMC, this parcel is routinely subjected to noise from helicopters approaching and departing from the helipad. There are days when it's almost non-stop overhead helicopters, and you start wondering if you'll have any windows left in your house because of the vibration. Were the studies conducted during low volume days?, high volume days?. What was the number of helicopter pass-overs during the study?

Per my conversation with the Airport Land Use Commission, they felt they should have some input on the proposed development. When I reported this to San Jose Planning, the response was "The ALUC is not required to submit a report." ***It may not be required, but considering the seniors will have to live with this incessant noise, don't you think it might be a good idea?***

A.8 Chapter 3. M. Population and Housing (page 42) Thresholds per CEQA Checklist Table 12. a) "Would the project induce substantial population growth in an area..." No Impact checked

Wrong. This is significantly denser population than the condos or single family homes.

A.9 Chapter 3. P. Transportation (paragraph 1, page 45)

"The project would not require a traffic analysis due to the few number of new vehicle trips generated by the assisted living facility." and Explanation a) (paragraph 3, page 45) "The project would generate 215 daily vehicle trips...is not anticipated to affect level of service on the roadway or nearby intersections..."

The MND portrays a picture of no traffic impact. WRONG, WRONG, WRONG.

Let's take a look at what you're starting with. Here in the neighborhood, we know the Thornton/Downing corridor as the "commuter cutoff." (Map 1) By using Thornton Way, Downing Avenue, and Maywood Avenue, commuters can avoid 5 stoplights on Bascom and Moorpark Avenues (Bascom at Enborg/Fruitdale, Bascom at Renova, Bascom at Moorpark, Moorpark at Turner, and Moorpark at Ginger/MacArthur). The result is almost a mile and a half of unimpeded roadway. As you can imagine, vehicles can pick up quite a bit of speed in that distance. The posted 25 mph and 15mph speed limits mean nothing. The 2-4 stop signs in the area (depending on direction of travel) are also routinely ignored; at best, people will slow down and roll right through. Backing out of your own driveway is a take-your-life-in-your-hands proposition. This is a decades old problem.

The proposed development property is located on an awkward blind "S" curve. Photo 20 was taken at the approximate location and height of a driver exiting the underground parking per plans provided by the developer. As you can see in the photo, drivers will have only a few feet of unobstructed view to oncoming traffic. With vehicles traveling beyond the posted speed limits, even an extremely astute driver would feel uncomfortable exiting the structure. Moving the entrance/exit to the south side of the building would mean subjecting the neighboring homes to 24/7 noise, and because of the "S" shape of the turn, would still only offer a limited view to oncoming traffic. Not Acceptable.

A.10 The MND regarding traffic is incorrect based on the following:

- 1) How do you know how many residents you will have? And of those residents, how many will have driver's licenses and cars?
- 2) If the number of required employees has been grossly underestimated (discussed above), then how do you know how many trips through the neighborhood will be generated by those employees. And if memory care residents require 24 hour supervision, then how many employees will be coming and going in the middle of the night?
- 3) Aside from resident and employee trips, how many visitors will be coming and going throughout the day. It's not uncommon for seniors to have many family members visiting.
- 4) What about trips generated by visiting health care professionals?
- 5) What about emergency vehicles? Seniors will require more emergency medical care. One of my neighbors is a retired fire fighter, and he advises me that responding fire apparatus must respond with lights and sirens which adds to the noise in the neighborhood. Where will emergency vehicles park when responding? Will they have to park on an overcrowded street with vehicles speeding by?
- 6) Aside from residents and employees, a complex of the proposed size will have many vendor deliveries each day.
 - a) Will these be furnished units or will residents bring their own furniture? Even if furnished, residents will still want to bring personal items. Will moving vehicles be used? Of what size? Where will they park while delivering?

b) For the sake of easy math, let's say 150 meals will have to be provided per mealtime. That's 450 meals a day, every day. That's a lot of food that must be brought in, and probably very large trucks will be required for delivery. Will they have to park on the street? How many deliveries per week?

c) What about medical supplies? I'm not just talking about prescriptions; there will be wheelchairs, special beds, lift chairs, etc. All will have to be delivered, and how many of those trucks with there be? Where will they park?

d) What comes in, must eventually go out. A complex of the proposed size will generate a lot of garbage. How many times per week will there be garbage pickup? What time of day will they come? 5:00 am causing more noise in the neighborhood? Where will the garbage be kept? If pickup is sometime during peak traffic hours, will the trucks have to backup onto a busy street? What about bio-hazard garbage? Will a separate truck have to pick that up? If so, how many times per week?

e) As stated above, there's nothing in the neighborhood for seniors to do. How many times a day will the courtesy van make trips in and out of the area?

The list goes on and on.....

As you can see, in addition to the number of trips by residents and employees, it's the size and type of support vehicles traveling in and out of the neighborhood that must be considered

Rebuttal to Amendments

Appendix B, Arborist Report

A.11 With regard to the trees, the arborist has not noted any diseased trees. This is also noted in Appendix C, Phase I Assessment "No evidence of any...distressed vegetation was observed on the Property." (paragraph 1, page 1), (paragraph 4, page 5) and (last paragraph of page 8). This is also supported by Appendix A, Property Photographs. All photos included in Appendix A show lush green trees. I am enclosing my own photos (Photos 16, 17, 18) which again show lush green trees.

The arborist lists their condition as fair to poor, and as a result, the MND recommends removal. However, fair and poor are subjective terms. These trees are actually in very good condition considering they have had no irrigation for 30+ years and still leaf out every spring to provide a

lush, green habitat for wildlife and help mitigate noise and pollution from Highway 17. True, they could probably benefit from some diligent pruning and some water, but they are far from death. As a matter of fact, tree #3 turns a vibrant fire engine red each fall and is by far the best example of fall foliage in the neighborhood.

But aside from the subjective, there is photographic proof that these trees have significant historic value.

Go to www.historicaerials.com (noted as a reference on page 17 of the Phase I ESA Report, Appendix C). As the property in question has no address, use 935 Thornton Way to search. Select 1948. You will see that the trees in question are clearly visible and already adult size in 1948. More importantly, these trees are part of what we now refer to as "The Valley of the Hearts Delight." Doesn't the City of San Jose take great pride in that heritage?

Next step: zoom in a bit to make comparison easier. Select 2005. The same trees are clearly visible. Click on 1948 again, then go to the tool bar directly below the address. Click on Comparison; you will get a drop-down menu. Select dissolve. You will get an overlay of the two images. There is no question that these trees are the same trees visible in the 1948 image.

These trees are not only the heritage of this neighborhood, they are the heritage of the entire Santa Clara Valley. They are some of the last tangible evidence of what "The Valley of the Hearts Delight" truly was. As such, they deserve the protection of the Planning Commission and should be treated with reverence and great care. No construction should be allowed close enough to jeopardize their well being.

Although the oak trees along the west side of the property were not part of the original orchard, they are healthy adult trees that should be required to be incorporated into any development plans. They provide habitat for wildlife, help mitigate noise and pollution from Highway 17, and are adult trees located where the developer plans on planting trees anyway. Why tear out a healthy adult tree and replace it with a tree that will not reach the same size for probably 20 years? If they are removed, stump removal may jeopardize the surrounding walnut trees. Most importantly, if you were a senior gazing out your window, would you prefer looking at a large oak tree or the rooftop of a mini storage facility?

Appendix C, Phase I Assessment

Historical Records Review For The Property (page 9)

"...the history of a site be established...historical sources include...current owner/occupants of neighboring properties."

I own the 2 adjacent properties to the south, 935 and 941 Thornton Way, and no one ever spoke to me.

Appendix D, Interview Documentation

A.12 Environmental Questionnaire/Disclosure Statement

Question 13 "...were there...storage tanks ...on the property?"

Yes, there was. It was a large above ground metal storage tank that was on the property for several years. I do not know what was stored in the tank. It was removed when the owners decided to sell. I know this because the people the owners hired to cut up the tank arrived with only electric tools. As there is no electric service to the property, the workmen asked to tap into our outlets and borrowed extension cords. The tank took 2 days to cut up on site.

A.13 At this point in my letter I want to point out something that was conveyed to Ms. Martell and myself at our meeting with Ms. Lipoma on September 12, 2013:

As of September 12, 2013 the developer had not filed any plans (floor plans, landscaping, utility, etc.) or elevations with the City of San Jose Planning Office. Nor had the developer paid fees in full. As far as she knew, the project could be as few as 20 units, or more than the 85 units we were advised of at the August 20, 2013 Public Meeting. I told Ms. Lipoma that I was very interested in seeing completed plans prior to the September 18, 2013 deadline for opposition letters from the public. I went so far as to assure Ms. Lipoma that I was making it my personal responsibility to make myself available within hours of her call. It is now 3:18 pm on September 16, 2013 and as far as I know the developer has not completed the application for Conditional Use Permit.

There are some things I know for sure as of today:

1. There is no project because the Application for Conditional Use Permit has not been completed.
2. The information presented at the Public Meeting is not the plans that will be used if the CUP is granted, so that information was a lie.
3. If the information in the MND is based on plans that will not be used for construction, then the MND is a lie.

4. As of this date, the public still has not been notified, either by mail or by signage, of any real project plans if there is no CUP and the MND noted on the sign is a lie based on bogus information.
5. Any amendments to the General Plan, pre-zoning or re-zoning should not even be considered at this time if there is no CUP with proper notification to the public.
6. The developer should have to remove the signs on the property. They contain information that we know is incorrect, specifically the reference to finding information regarding development (the MND address).
7. If and when the developer wants to follow the rules, then the developer should have to start the whole process over. The residents of this neighborhood have followed every rule regarding opposition; it is even more incumbent on the developer to be as forthright.

Thank you for your time,

A handwritten signature in black ink, appearing to read "Karen Bowman". The signature is fluid and cursive, with the first name "Karen" and last name "Bowman" clearly distinguishable.

Karen Bowman

Map 1

Clear Map

SEARCH FOR (Ex. 1555 Blake St, Denver CO [more](#))

935 Thornton Way, San Jose, CA 95128-3858

[Get Directions](#)

[Get Map](#)

935 Thornton Way
San Jose, CA 95128-3858

[Directions](#) [Search Nearby](#) [Save](#)

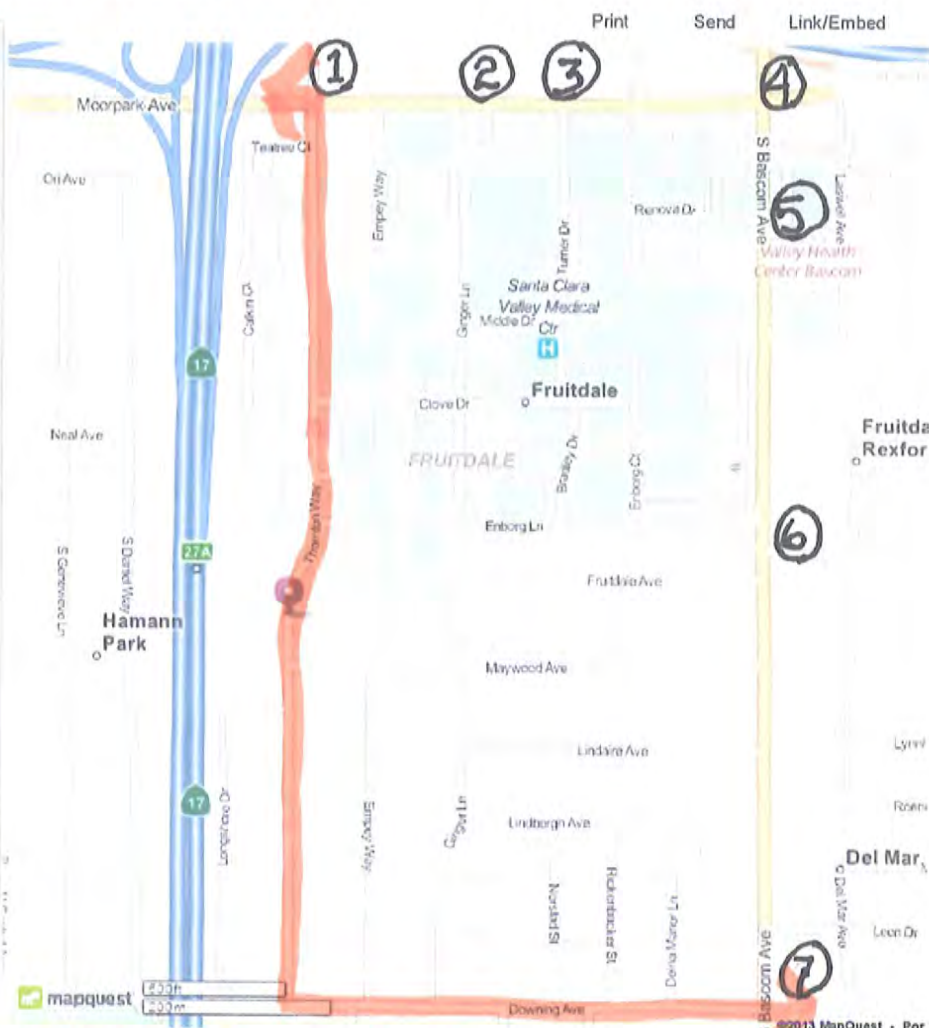
Online Offers:

[San Jose Hotels](#)

[Real Estate in San Jose](#)

Travel Options

| Hotel | Air | Car |
|---------------------------------------|-----|-------------------------|
| Location San Jose, CA | | |
| Check-in mm/dd/yyyy | | Check-out mm/dd/yyyy |
| Number of Rooms 1 | | |
| View Suggested Hotels | | Starting at \$67 |



Stoplights

ENTRANCE/Exit to "Commuter's Cutoff"

① = Thornton at Moorpark

⑦ = Downing at Bascom

AVOIDED STOPLIGHTS

② = Moorpark at GINGER / MacArthur

③ = Moorpark at Turner

④ = Moorpark at Bascom

⑤ = Bascom at RENOVA

⑥ = Bascom at Enborg / Fruitdale



Photo 1 - 8-28-13, 2:19 pm, SE CORNER OF PROPOSED DEVELOPMENT LOOKING NORTH ON THORNTON WAY
NO ON-STREET PARKING AVAILABLE



Photo 2 - 8-28-13, 2:25 pm, INTERSECTION OF THORNTON AT ENBORE LOOKING SOUTH ON THORNTON
NO ON-STREET PARKING AVAILABLE



Photo 3 - 8-28-13, 2:26 pm, INTERSECTION OF Thornton at Enborg looking NORTH ON Thornton
NO ON-STREET PARKING AVAILABLE



Photo 4 - 8-28-13, 2:24 pm, Enborg at Thornton Looking East on ENBORG - NO ON-STREET PARKING AVAILABLE, NOTE BLACK AND RED CARS EXITING UMC Parking Lot



Photo 5 - 9-9-13, 11:18 AM INTERSECTION OF Thornton At Enborg looking south ON Thornton
NO ON-STREET PARKING AVAILABLE



Photo 6 - 9-9-13, 8:17 am, INTERSECTION OF ENBORG AT THORNTON LOOKING EAST ON ENBORG
NO ON-STREET PARKING AVAILABLE



Photo 7
9-9-13, 10:26A
Thornton at
Enborg
LOOKING NORTH
ON THORNTON



Photo 8
9-9-13, 10:50A
Clove at
Thornton
Looking EAST
ON CLOVE



Photo 9
9-9-13, 10:41 A
Empey from
"L" CURVE
(600 block)
LOOKING WEST
TO THORNTON
INTERSECTION
NOTE "PERMIT
PARKING ONLY"
ON RIGHT SIDE
OF STREET



Photo 10
9-9-13, 10:40 A
600 BLOCK OF
EMPEY LOOK-
ING NORTH TO
MOOREPARK
INTERSECTION
NOTE "PERMIT
PARKING ONLY"
ON LEFT SIDE
OF STREET



Photo 11
9-9-13, 11:01A
NEW BUILDING
AT VMC NEAR
BASCOM, OPENS
IN LESS THAN
1 YEAR



Photo 12
9-9-13, 10:32A

CONSTRUCTION
SITE OF NEW
RECEIVING AND
Support
BUILDING
FOR VMC

CLOVE AT
GINGER



Photo 13
8-28-13, 3:06p
"GREEN BELT"
EASEMENT
BETWEEN
SOUTH END OF
CONDO'S AND
MINI STORAGE
DRIVEWAY

Photo 14 - 9-9-13, 8:16 AM
"GREEN BELT" ALONG THORNTON



Photo 15 - 9-9-13, 10:47 AM NOTE ORIGINAL
MOORPARK ELEMENTARY SCHOOL TREES

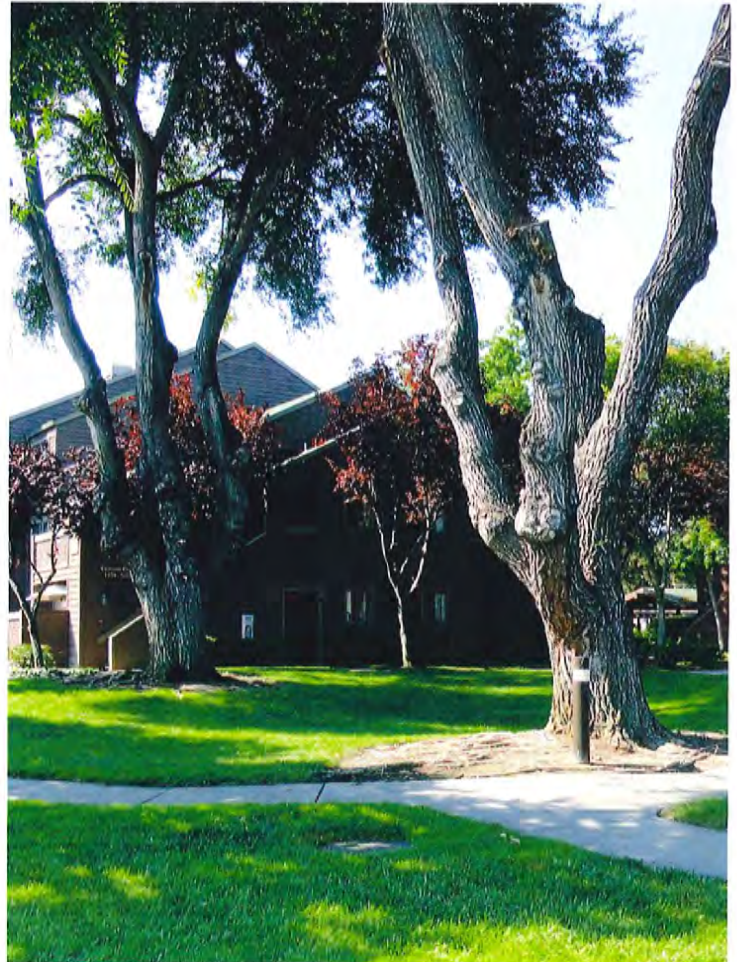




Photo 16 - 8-28-13, 5:08 pm, WALNUT TREES FROM 1940'S ORCHARD ON WEST SIDE OF PROPOSED DEVELOPMENT - "Valley of the Heart's Delight" TREES



Photo 17 - 8-28-13, 3:09 pm
TREES FROM 1940'S ORCHARD, SW
CORNER OF PROPOSED DEVELOPMENT
"Valley of the Heart's Delight" TREES



Photo 18 - 8-28-13, 3:10 pm
HEALTHY OAK TREE ON WEST SIDE OF
PROPOSED DEVELOPMENT



Photo 19
9-10-13, 11:36 AM
SW CORNER OF
VMC PARKING
(DIRECTLY ACROSS
FROM DEVELOPMENT)
FURTHEST POSSIBLE
PARKING AWAY
FROM HOSPITAL -
NOTE LOT IS
FULL



Photo 20
9-10-13, 11:38 AM
OBSTRUCTED
VIEW FROM
APPROXIMATE
EXIT LOCATION
FROM UNDER-
GROUND
PARKING

Keyon, David

From: A Chavez [art.chavez@sbcglobal.net]
Sent: Tuesday, September 17, 2013 12:30 PM
To: Keyon, David
Cc: Lipoma, Emily; Pierluigi.Oliverio@sanjoseca.gov; Supervisor.Yeager@bos.sccgov.org
Subject: Proposed Thornton Way Assisted Living Facility

Dear Mr. Keyon:

My name is Aimy Chess-Chavez. My husband, Arthur, and I own and live at the property 2316 Maywood Avenue which T's into Thornton Way.

I am writing to express my concerns over the proposed construction of the Assisted Living Facility.

Thornton Way Residential Project
GP13-006
CP13-061
Mitigated Negative Declaration

I object to the above project for the following reasons:

- B.1** *No signs were put up on the property per San Jose's Outreach Policy 6-30 until August 28, 2013, which was a week after the public meeting concerning the project. Residents in the area were not informed that the project was being proposed.
- B.2** *The project is over 80 units per acre, which violates the General Plan policy to protect existing neighborhoods. The project is in between a multi-unit complex that is 20 units per acre and single family homes zoned for 1-8 unit's per acre.
- B.3** *The project requires multiple support staff in addition to residents that will generate excessive traffic and parking.
- B.4** *The design requires a driveway from a basement garage on a curve.
- B.5** *The design does not account for delivery vehicles or emergency personnel/vehicles.
- B.6** **We already have an existing excessive traffic problem on Maywood Ave as well as surrounding streets including Thornton Way. It is nearly impossible to leave or enter one's driveway during commute hours or sometimes in the middle of the afternoon. The hospital employees, visitors and commuters speed and use Maywood/Thornton as a cut through daily. If you will notice we are just off the major thoroughfare of Bascom Avenue, so we have more than our fair share of traffic which is not ideal for health or peaceful living or our property values.
- B.7** **Also, there is the matter of the HeliPad at Valley Medical Center. A four story building would leave less air passage options for landing and departing helicopters which would then cause the resulting disruptive and cacophonous air traffic to be less evenly dispersed, therefore, unduly creating more noise and disruption for parts of the neighborhood.

Why not build this facility out on the vacant property on Bascom Avenue?

Name: Aimy Chess-Chavez
Address: 2316 Maywood Avenue, San Jose, Ca 95128

Email: Art.Chavez@sbcglobal.net

I sincerely hope you take these concerns seriously. I would like to hear back from you.

I would have contacted you sooner, yet I just found out about this.

Please email me at above address or phone me at (408) 993.9565

Thank you,

Aimy Chess-Chavez

Sent from my iPad

September 16, 2013

David Keyon
200 E. Santa Clara St.
Tower-3
San Jose, CA 95113-1905



Thornton Way Residential Project
GP13-006
CP13-061
Mitigated Negative Declaration

I object to the above project for the following reasons:

- C.1 • No signs were put up on the property per San Jose's Outreach Policy 6-30 until August 28, 2013, which was a week after the public meeting. Residents in the area did not know a project was being proposed.
- C.2 • The project is over 80 units per acre, which violates the General Plan policy to protect existing neighborhoods. The project is in between a multi-unit complex that is 20 units per acre and single family homes zoned for 1-8 units per acre.
- C.3 • The project requires support staff in addition to residents that will generate excessive traffic and parking.
- C.4 • The design requires a driveway from a basement garage on a curve.
- C.5 • The design does not account for delivery vehicles or emergency personnel.
- C.6 • The design does not account for any loud noise due to delivery vehicles. If the delivery trucks arrive in the early morning hours the noise caused by them will disturb the existing neighbors.

I have lived in this neighborhood for over 12 years and object to a plan that is going to increase traffic, increase vehicles parked on the streets and cause additional noise in the area.

Esequiel Garcia
2573 Maywood Ave.
San Jose, CA 95128

Cc San Jose Mercury News
Damien Trujillo, NBC Investigative Reporter

September 16, 2013

David Keyon
200 E. Santa Clara St.
Tower-3
San Jose, CA 95113-1905



Thornton Way Residential Project
GP13-006
CP13-061
Mitigated Negative Declaration

I object to the above project for the following reasons:

- No signs were put up on the property per San Jose's Outreach Policy 6-30 until August 28, 2013, which was a week after the public meeting. Residents in the area did not know a project was being proposed.
- The project is over 80 units per acre, which violates the General Plan policy to protect existing neighborhoods. The project is in between a multi-unit complex that is 20 units per acre and single family homes zoned for 1-8 units per acre.
- The project requires support staff in addition to residents that will generate excessive traffic and parking.
- The design requires a driveway from a basement garage on a curve.
- The design does not account for delivery vehicles or emergency personnel.
- The design does not account for any loud noise due to delivery vehicles. If the delivery trucks arrive in the early morning hours the noise caused by them will disturb the existing neighbors.

I have lived in this neighborhood for over 12 years and object to a plan that is going to increase traffic, increase vehicles parked on the streets and cause additional noise in the area.

Rose Garcia
2573 Maywood Ave.
San Jose, CA 95128
Rosegarcia1@comcast.net

Cc San Jose Mercury News
Damien Trujillo, NBC Investigative Reporter

Randi Kinman
September 18, 2013

Thornton Way Project

City of San Jose Outreach Policy 6-30

- Per policy the applicant should have posted signs on the property alerting community members that a proposal had been filed. This ensures that all interested parties outside the 500-100ft area of written notification have the opportunity to be aware of a project and comment. The mandatory signage was not in place prior to the community meeting held on August 20, 2013. The only sign on the sight was a long standing “for sale” sign. Mandatory signage was not placed on the site until after Planning Staff was advised of this deficiency on August 28, 2013.
- The mailed notification process did not allow for a delivery to all of the residents of the adjacent multi-family housing project. The management of the multi-family housing did not receive a notice.
- The 500ft radius for mailed notification is in conflict with policy 6-30 which states that projects over 50 units are considered to achieve “Large Development Proposal” which requires 1000ft notice. While the CUP and development proposal are not bundled for the initial Planning Commission hearing, the fact is the project attached to the CUP is driving the rezoning and qualifies for expanded notification.

Recommendation: Based on the applicant’s failure to comply with policy and the constraints of their application, the process should be deferred and a “fresh start” established with a community meeting that ensures all interested parties are aware of the project.

Pre-Zoning C13-026 and GP13-006

- Application states that the facility “..would provide a transition buffer between the surrounding land uses and the existing neighborhood located south of the site on Thornton Way.” This is, in fact, an increase in land use capability compared to existing land use.
 - Thornton is without exception residential property on the western side. Mandatory setbacks and other requirements for strictly residential neighborhoods are thus changed.
 - The current zoning of light industrial acts as a lower impact land use when taking into account the current surrounding conditions that are not expected to change.
 - The multi family project adjacent to the site is 20DU/AC, the housing on the other side of the site is single family homes equivalent to a R1-8 zoning. The project is almost 90DU/AC which is not a “buffer”.

- The storage facility is low impact light industrial and the parking lot across the street is accessed away from the site and cannot be developed without re-zoning that is not being considered. This buffers the neighborhood from excessive development.
- The existing single family homes are one-story homes. The existing multi-family complex has a 3-story maximum. The addition of buildings in excess of 50' between existing housing is not a buffer physically.
- While the application concentrates on the “housing” portion of the proposal, it ignores the fact this is a commercial enterprise that provides senior housing. This requires substantial staff support and vehicular traffic that one does not associate with the standard housing model.
- The proposed project does not comply with the Envision 2040 General Plan Goal #2 for Focused Growth that would be “..compatible with established neighborhood character...” or any of the other goals to protect existing neighborhoods.
- The proposed project does not comply with the existing Urban Village plan for the West Bascom Area by maintaining a low impact on existing neighborhoods while increasing focused growth in specific areas per Envision 2040.
- The applicant has no CUP and has pointed out at a community meeting that the PD zoning could allow up to 30DU/AC development and other uses if a CUP is not granted. This, again, is not a step down from existing allowed use, but is, in fact an increase in proposed land use.
- The existing residential neighborhood is an unincorporated county pocket without standard sidewalk/setback infrastructure. The intent to provide housing for at risk (physically) populations in an area lacking basic infrastructure is not sound planning.

Recommendation: Deny Re-Zoning as it is incompatible with existing and projected land use. It intensifies the use of land adjacent to single family homes in an area deficient in standard infrastructure and is in conflict with San Jose’s Envision 2040 General Plan goals to preserve the existing “flavor” of the neighborhood. If the intent is to rezone in conflict with the general plan, then all elements, including the CUP should move forward simultaneously.

Mitigated Negative Declaration

- Mitigation NSE-1 noise
 - All windows in living spaces on north, west and south facades to be maintained closed at all times but third bullet states windows should be sliding panels. Does this mean windows “can” open in living spaces or is the “sliding window” portion on non-living areas (i.e. community

rooms). Since this is a proposed senior facility with the common areas considered shared living areas, does the “closed at all times” requirement apply to all common areas? Failure to have securely closed (and unable to open) windows throughout all common areas results in no mitigation.

- What is the basis for allowing noise intrusion on the east side? Is there modeling or data that shows the noise will not reach unacceptable levels?
- It would appear that a closed system is required for air circulation in areas where “closed windows” are in affect, but is this system tied into, or does this system cross connect with areas that are not closed? If so, there would be virtually no mitigation in place.
- Air Quality
 - E.2 ○ Noting the noise impacts of the freeway does not include the impact of particulates and toxins produced by the freeway. How is proximity to the pollution produced by the freeway mitigated?
 - E.3 ○ This project represents an at risk population that would be severely compromised during a power outage. Is there a back up generator proposed?
- E.4 • Population impacts. What would trigger a significant increase in population? The proposal increases the population on this site from zero to 115 residents with support staff.
- E.5 • Traffic
 - The MND lists Line 29 as a service line for bus transit yet VTA has no Line 29 listed online. Is this old information? Is the transit available that would allow shift workers to actually use transit?
- Project Description
 - E.6 ○ The staffing ratios appear to be off. While the mandatory resident/staff ratio is low based on the proposed use, the reality is that the auxiliary staffing would be much higher. While the developer stated at a public meeting that 20 staff members would be on site, the CUP lists kitchens (2), dining rooms (2) , offices, medical dispensaries, laundry, and memory care facilities that would imply far greater numbers of staff (not including maintenance). This significantly impacts the ability to park all residential and visitor needs on site.
 - E.7 ○ The proposed change in zoning from residential neighborhood to mixed use residential is inconsistent with the surrounding area and inconsistent with Envision 2040 goals.
 - E.8 ○ Memory units in senior housing require more staffing and assistance than standard assisted living units; how is this accounted for?
 - E.9 ○ The assumption in para 4 on page 36 “..the proposed assisted living facility will accommodate elderly residents that require medical assistance and would minimize the generation of traffic and related noise compared to other types of residential or healthcare uses ...” is inconsistent with the fact that these facilities generate considerably

- more calls for service by EMT and fire in comparison with other residential uses. It also ignores the mandatory and auxilliary staff traffic, delivery vehicles and garbage trucks.
- E.10 ○ As a senior facility that assists in medical care, there will be production of biohazard waste material (i.e. syringes, catheters) that is not accounted for in the application or analysis. Would this be addressed in the mitigated neg dec or elsewhere?
 - E.11 ○ See comments in the zoning portion. This MND is based on a CUP that has not been submitted in full, which means the underlying assumptions could be completely different based on an entitled zoning.
 - E.12 ○ The MND is based on “housing” but fails to note closest schools as required in a strictly housing proposal. The proposal is a mix of both housing and institutional and should be regarded as both. If this is “housing” then items like the parking ratio should comply with “housing”; if it is an institution, the parking can be amended.

Recommendation: Do not adopt the Mitigated Negative Declaration based on the mitigation deficiencies listed and the questions outstanding. The Mitigated Negative Declaration could only be adopted if the project was, in fact, approved as proposed. Because the project does not have approval or a CUP, adopting a MND could result in a completely different project .

Conditional Use Permit CP13-061

- There are virtually no amenities within walking distance of the facility other than proximity to a hospital. The adjacent residential streets are without complete sidewalks. The major streets close to the site are commercial feeder streets to freeways. This ensures all “outside” trips will generate vehicular traffic and staffing not accounted for in the request for zoning change.
- Since the onsite parking is underground, how is the need for in-house transportation accommodated? Does that come out of parking for staff and/or visitors?
- The diagrams presented show a long expanse of frontage on Thorton that does not interact with the street which creates an adverse impact on the existing neighborhood.
- There appears to be no ground floor access for delivery vehicles related to laundry or kitchen facilities. These deliveries should be accommodated on site with direct in/out (i.e. no backing out) and no on street parking of commercial vehicles should be allowed. These delivery sites should be located away from existing residential property.
- Likewise, there appears to be no on site ability for garbage trucks. This should be accommodated away from existing homes in a manner that does not disrupt residents.

- Any housing that addresses the needs of medically frail, seniors or patients with dementia will generate more calls for emergency medical service than other types of housing. A CUP should include staging areas for ambulance and fire and not just presume the use of a fire lane.
- The CUP does not include medical waste control or disposal.
- The bare bones CUP is the actual key to rezoning. Until there is more information (i.e. emergency evacuation plans) it is difficult to assess the project.
- If the gates in the facility act as security for residents, especially those in the memory care units, how would this be impacted by a power failure?
- The existing diagram filed with the preliminary CUP application shows a driveway on what is essentially a blind curve. This would create a situation where vehicles are leaving an underground facility without adequate visual ability to judge any oncoming traffic. What are the sight lines and what are the criteria for maximizing line of sight?

Recommendation: The CUP is not up for approval until the zoning is accomplished. This site is not appropriate for the proposed use.

September 13, 2013

Mr. Joseph Horwedel, Director
Planning, Building and Code Enforcement
200 E. Santa Clara St., Tower-3
San Jose, CA 95113-1905
Joseph.horwedel@sanjoseca.gov



Dear Mr. Horwedel

Re: General Plan Designation and Pre-Zoning of .89 acre site on Thornton Way

Good Day,

According to the City of San Jose Outreach Policy 6-30, project signs are to be posted within 10 days of a filing date of a proposal which would have been 7/13 and/or 7/28/13. GP13-006 was filed on 7/3/13 and C13-026 was filed on 7/18/13. The sign telling of the proposal went up on the property 8/28/13, eight full days after the community meeting. In addition, the 500 ft. notification of the Community Meeting arrived only 7 days prior to the community meeting. This action does not comply with the Outreach Policy. The applicant has failed to comply with the City's requirements, and this should affect the process.

I have concerns regarding the environmental review and the inadequacy of the Mitigated Negative Declaration. I do not believe due diligence was completed. In regards to the Mitigated Negative Declaration, I have the following concerns:

- F.1 - Pg. 2 – IV RAPTORS. A thorough study of the raptor nesting area through the seasons should be completed BEFORE any construction is sanctioned. In the past, there were also owls.
- F.2 - Pg. 4 – XVI. TRANSPORTATION / TRAFFIC. "The project will not have a significant impact on transportation or traffic, therefore no mitigation is required." Not true. Depending on the size of the project, traffic will be impacted in some way. Since there is the possibility of Residential Care Facility, per the Public Notice circulated on August 19, 2013, "no impact" cannot be determined at this point. There will be an increase in, delivery (groceries, linen service, medical equipment & supplies, etc.), garbage, emergency, Outreach, site-owned transportation, maintenance vehicles, etc, coming into the neighborhood. So, yes there will be an impact since all vehicles will come down part or all of Thornton Way at some point.
- F.3 - PEDESTRIANS - The street curves significantly, numerous drivers don't regularly obey the speed limit (15 mph on the curve), there is a large storage facility sign, cars are usually parked just on the other side of the storage driveway, and folks enter and exit the Valley Medical Center parking lot on the opposite side of the street. There are also large numbers of walkers from Valley Medical Center, Della Maggiore School and Chandler Tripp School, and all of these will create of bit of a hazard and will have an impact on the neighborhood if the proposed Residential Care Facility goes forward.
- F.4 - PARKING – is not addressed in the document. Parking along the curve will be eliminated for any development, which will move current users of the area down the street in front of the residences. Overflow visitors/volunteers/employees will also be parking in the neighborhood if a Residential Care Facility is developed.

- F.5- AIR TRAFFIC PATTERNS - There will be a change in air traffic patterns for all of the helicopters who follow the Highway 17 corridor, and turn in to the hospital over this piece of land. The helicopters will need to adjust and go over more of the nearby houses. So, yes there will be an impact on the neighborhood.
- F.6- APPENDIX B. Arborist Report - Tree Report indicates size and placement of all of the trees, but does not take into account that many of these trees are Heritage Trees, and have been in place for over 60 years. Aerial views from 1948, 1956 and 1968 verify this.
- F.7- APPENDIX D. Interview Documentation - I direct you to pg. 55 (labeled 3 of 5), the question about storage tanks is unanswered. The neighbors and apparently the owners were not interviewed. There was a storage tank on the property for many years, and it even appears in the 2013 Google Map. Since it is unknown what it held, perhaps a more detailed soil sampling effort is needed.

The request to change the Land Use/Transportation Diagram designation from Residential Neighborhood to Mixed-Use Neighborhood is not appropriate and should not happen. The established single-story neighborhood has been in place since the early 1940's. We were informed that the zoning at present is OA (Office / Administrative) per the county map Emily Lipoma secured.

I feel this site should remain with this OA zoning. Changing this zoning to a Multiple Residence zoning district would not be appropriate. The property is .89 of an acre, and some of the nearby houses are about .25 of an acre. With all of the hospital buildings nearby another office building is preferable, since then the hours kept would be more in keeping with the neighborhood lifestyle. On the other side of this lot there is a large stand of redwood trees and then a condominium complex. And, we are all residents of the same neighborhood.

I strongly oppose both the GP13-006 and C13-026. If the projects remain active, they both should be deferred until the CUP is filed and the rest of this proposal for the property along with the complete plans for development are submitted and made available. The public and all of the neighborhood deserve a chance to be fully informed, and to be allowed to review and comment. At present this project seems anything but transparent and above board.

Sincerely,

Penelope Martell
1024 Thornton Way
San Jose, CA 95128-3859
pmartell@sbcglobal.net

Dept. of City Planning
David Kenyon
200 E. Santa Clara St., 3rd Floor
San Jose, CA. 95113-1905



Dear David,

I just heard last week about the development of the empty lot on Thornton Way & Enborg. I have to say it I was **quite shocked** in learning that the plans are to put in a Senior Housing Facility for 85-113 residents.

G.1 My husband and I have lived in our home on Thornton for 26 years now. We enjoy our neighborhood and the close proximity it is to freeway access and stores. When we first moved in, we hadn't realized that there was a huge problem with speeders, noise & traffic on Thornton Way. This is due to people cutting through on Thornton Way instead of going down Bascom Ave. This is something that has been a problem for many years, even before we moved in. Neighbors told me of a young girl that was killed by someone that was speeding down the street. There was also a boy who I knew that was hit by a car and he was in a body cast. Many cars don't even stop at the stop signs on Thornton Way. They just drive right through them. For many years the county has put out the speed limit radars, because the neighbors wanted to have speed bumps put in.

G.2 So, with all of this history, we are very concerned, with more cars on our street, noise, traffic and speeders. The homes that are right next door to this lot already have many problems with cars from the employees that work at VMC. They will park in their driveways and they have to call the sheriff to take care of the problem. This is unacceptable and so inconvenient.

The Sierra Crest residents, they have to use the street for parking and that is already a concern for them. After 5 pm, the street doesn't have open spaces. They have one carport per condo. So there other cars have to be on the street.

G.3 We would like to see a one-story Senior Facility or single family dwellings put in. If there is a four-story Senior Facility, then there will be care providers (delivery trucks for providing food, linens, maintenance) residents visitors, the number of people that will have to park at this location is many more than 43. Which is the number of underground parking that was specified. Which is a good question, there weren't any plans of the underground parking at the meeting. Would there even be enough room for 43 spaces? This doesn't seem like the planning for parking has been clearly thought through.

G.4 There is also the issue of the helicopter flight paths. Since this is the designated area that the helicopters are suppose to fly over, then now where would they fly over. The rule is that they go over sparsely populated, so in

case of an accident, then less people are in danger. Also, with the proposed 4 story dwelling, the helicopters need to come in low and this wouldn't be adequate.

We are very concerned with this proposed facility and this is a written appeal, that we are not happy with what is being proposed.

Sincerely,

A handwritten signature in cursive script, appearing to read "Merry Quittner".

Merry Quittner
Thornton Way
San Jose, CA. 95128



September 18, 2013

Emily Lipoma, Planner
David Keyon, Environmental Planning
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113-1905

Re: General Plan Designation, Pre-Zoning, and Development of Thornton Way Site

Dear Ms. Lipoma and Mr. Keyon,

On behalf of the 332 homeowners and approximately 600 residents of Sierra Crest, the Board has decided to take a stand in opposition to the proposed Thornton Way site. We feel there are a plethora of valid reasons for our homeowners as well as the community at large to oppose this project, but we are highlighting the ones we find will most impact Sierra Crest.

We have chosen to address both of you because many of our concerns relating to this issue are of an environmental nature and we believe firmly that all planning should consider the environment—air, water, flora, fauna, current living environments of residents, creatures large and small, shade, etc. as an integral component, not opponent.

As the largest group of residents near the project, we attest residents in the area did not know a project was being proposed. No signs were put up on the property per San Jose's Outreach Policy 6-30 until August 28, 2013, which was a week after the public meeting. Our offices were not notified of any meeting, and to this day, have never received any notification regarding the development.

Our On-site Manager, Shaunn Cartwright spoke directly with Ms. Lipoma regarding our concerns about no communication regarding the development and Ms. Lipoma said she would add Ms. Cartwright to a list so that she would all future communications regarding the project. Ms. Cartwright did not receive the communication regarding the upcoming planning commission hearing on September 25.

H.1 Our property is made up of several two and three story buildings. The proposed development is taller, which would leave at least four of our buildings in perpetual shade for a full season. This sounds like a trivial matter, but studies show there are higher depression rates during winter months (winter blues) when days are shorter, and people even develop Seasonal Affective Disorder (SAD) which is characterized by "depression that occurs at the same time every year. If you're like most people with seasonal affective disorder, your symptoms start in the fall and may continue into the winter months, sapping your energy and making you feel moody." <http://www.mayoclinic.com/health/seasonal-affective-disorder/DS00195>.

H.2 Have you ever tried to find street parking near the project? Some members of the Board do because it's closer than their assigned parking space, so we can say with absolute authority, there is no abundance of parking on Thornton. Or Enborg. Or... The fact that this project requires support staff in addition to residents and visitors (imagine Father's Day, Mother's Day, etc.) but only offers 40 parking spaces is ridiculous and puts the burden of their poor planning on the rest of the community. Their "overflow parking" will not only be located on Thornton but will likely be located on Yarwood Ct as well. We'd like to note that Yarwood Ct. is private, part of our complex and clearly not for the use of their overflow parking.

H.3 If you've ever driven down Thornton you know it's a mashup of a zippy little race course, route full of an incredible number of small school busses three times a day and drivers that always seem to crash at the intersection of Moorpark and Thornton (please look up the statistics). About six months ago, one of our residents, a motorcyclist was severely injured in one of those crashes. We cannot imagine what a small street like Thornton would be like if you added all the additional resident vehicles, staff vehicles, delivery vehicles, visitor vehicles this development will generate.

Does the current design accommodate for delivery vehicles or emergency vehicles? A year ago, there was an accident on Thornton and our On-site Manager ended up in the middle of the street directing traffic while SJPD, highway patrol and the sheriff's department debated whose jurisdiction it was. Traffic was backed up from Moorpark to Enborg with school busses trying to navigate around emergency vehicles and finding little to no room. The street simply cannot accommodate these scenarios.

H.4 The current design doesn't clarify if the underground parking is gated or not. If it is, we don't see the necessary easement from the street that we were told was required to gate off our community. If there isn't an easement required, we'd like to know why. It seems awfully dangerous to go from a dark, subterranean garage at a steep angle, up to the bright street, and then try to turn on an unexpected curve for motorists coming towards you.

H.5 We also have residents who have purchased a home at Sierra Crest because they have special needs children who attend the Chandler Tripp Elementary across the street. With the increased street traffic, these parents would no longer have the feeling of safety to cross the street to take their child to school, nor be able to find easy parking at or near the school because the school would likely also become a source of "overflow parking."

H.6 Lastly, we have several residents in addition to our On-site Manager who have compromised immune systems and we have grave concerns about the effects of 15 months of construction on their health. Fifteen months of dust particulate, noise, increased pollution via construction machinery, etc. will have a serious impact on their well-being.

In closing, while this project may be intended to ease the burden on the seniors it houses, it places an undue burden on the health and safety of not only the micro community of Sierra Crest, but the entire community surrounding this proposed Thornton Way development. We urge you to follow the General Plan and reject the current development. We support a smaller, two story development that is in line with the General Plan and surrounding community.

Thank you for your consideration,

The Board of the Sierra Crest Homeowners Association (Anastasia Beavers, Ora Chalmers, Lisa Marie Davison, Amber Hopfensperger, Cassie Seacrist)

County of Santa Clara

Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
1-408-573-2400



September 4, 2013

John Davidson
Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113-1905

**SUBJECT: Notice of Intent to adopt a Mitigated Negative Declaration
Thornton Way Residential Care Facility – Annexation Moorpark 22, GP 13-006, CP 13-061**

Dear Mr. Davidson:

The County of Santa Clara Roads and Airports Department is submitting the following comments.

I.1

The proposed residential care facility is located on a portion of Thornton Way that is maintained by the County of Santa Clara. Proceeding north of the parcel, Thornton Way is co-maintained by the City of San Jose and the County of Santa Clara, wherein the County maintains the east side of the road, while the City maintains the west side. The County is requesting clarification for the annexation of Thornton Way. The Initial Study is unclear whether or not Annexation Moorpark 22 will include the County-maintained west half of Thornton Way that provides ingress and egress to the facility.

A Santa Clara County Roads and Airports Encroachment Permit is required prior to any work performed in the County Maintained Road Right of Way. The process for obtaining an Encroachment Permit involves but is not limited to submitting a minimum of three full size copies, one half size copy of the signed engineered final improvement plans, drainage calculations, erosion control plans, traffic control plan, and Certificate of Worker's Compensation Insurance to County Permitting Office in conjunction with an encroachment application. Please contact Permits, (408) 573 -2475 or by email at Permits@rda.sccgov.org for complete application process and timeline.

If the west half of the road fronting the project will be annexed to the City, the County would still appreciate the opportunity to review the road-related improvements in terms of how they may impact the co-maintained sections of Thornton Way.

Thank you for the opportunity to comment on the draft Mitigated Negative Declaration. If you have any questions about these comments, please contact me at (408) 573-2465 or dawn.cameron@rda.sccgov.org.

Sincerely,

Dawn S. Cameron
County Transportation Planner



August 21, 2013

City of San Jose
Department of Planning and Building
200 East Santa Clara Street
San Jose, CA 95113

Attention: David Keyon

Subject: Thornton Way Residential Care Facility

Dear Mr. Keyon:

J.1 Santa Clara Valley Transportation Authority (VTA) staff have reviewed the Negative Declaration for a residential care facility on the west side of Thornton Way. We have no comments at this time.

Thank you for the opportunity to review this project. If you have any questions, please call me at (408) 321-5784.

Sincerely,

A handwritten signature in black ink, appearing to read "RM", is written over the word "Sincerely,".

Roy Molseed
Senior Environmental Planner

Keyon, David

From: Lipoma, Emily
Sent: Friday, September 20, 2013 12:25 PM
To: Keyon, David; Rogers, Jason; Buikema, Rich
Subject: FW: Omissions from the MND

From: Karen Bowman [mailto:makeupcall@aol.com]
Sent: Friday, September 20, 2013 12:03 PM
To: Lipoma, Emily
Cc: Horwedel, Joseph; Prevetti, Laurel
Subject: Omissions from the MND

Emily,

I was going over the MND for the Thornton Way Project again this morning, and I realized some information was omitted in the Appendix section.

Appendix C - Phase I Assessment

Appendix B (B of C) Historical Research Documentation (on file at Piers Headquarters)
Appendix C (C of C) Regulatory Records (on file at Piers Headquarters)

K.1

1. If these studies were done, why were they kept from public review?
2. Considering the adjacent VMC construction uncovered an unknown cemetery and is having to move graves before further construction, this information might prove interesting. In addition, many native American relics have been found in the area. I would be interested to know what historic research was done.
3. I don't know what "Regulatory Records" means, so therefore, I would like to read this.

Thank you,
Karen Bowman

APPENDIX B
HISTORICAL RESEARCH DOCUMENTATION

0 Thornton Way, San Jose, CA

Search

Overlays (Off) ▾

Compare (Off) ▾

Survey ▾

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Purchase

Aerials

2005

2004

2002

1999

1998

1993

1987

1980

1968

1956

1948

Topos

T1980

T1978

T1975

T1969

T1967

T1966

T1963

T1962

T1959

T1955

T1946

1:135 ft.



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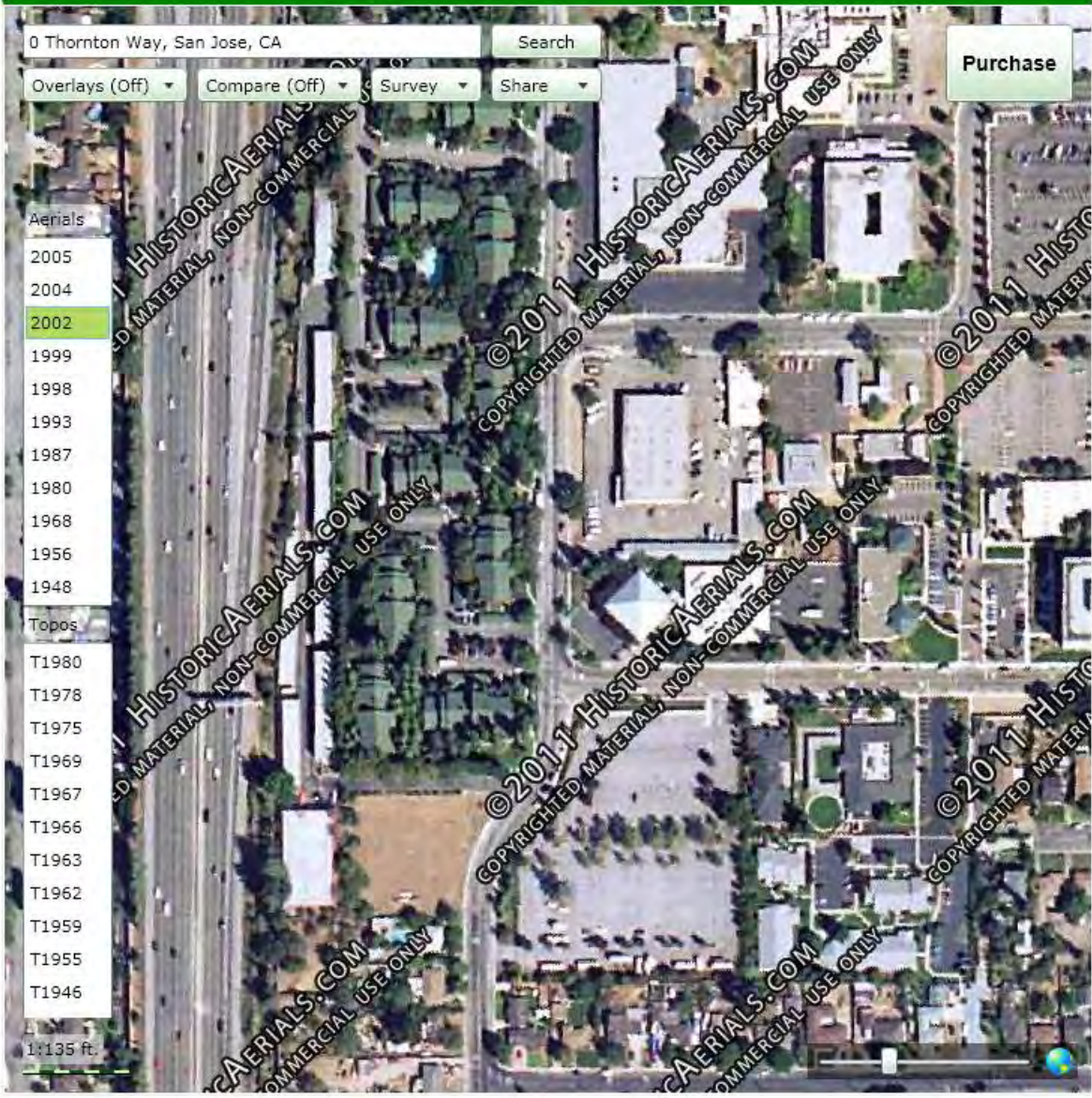
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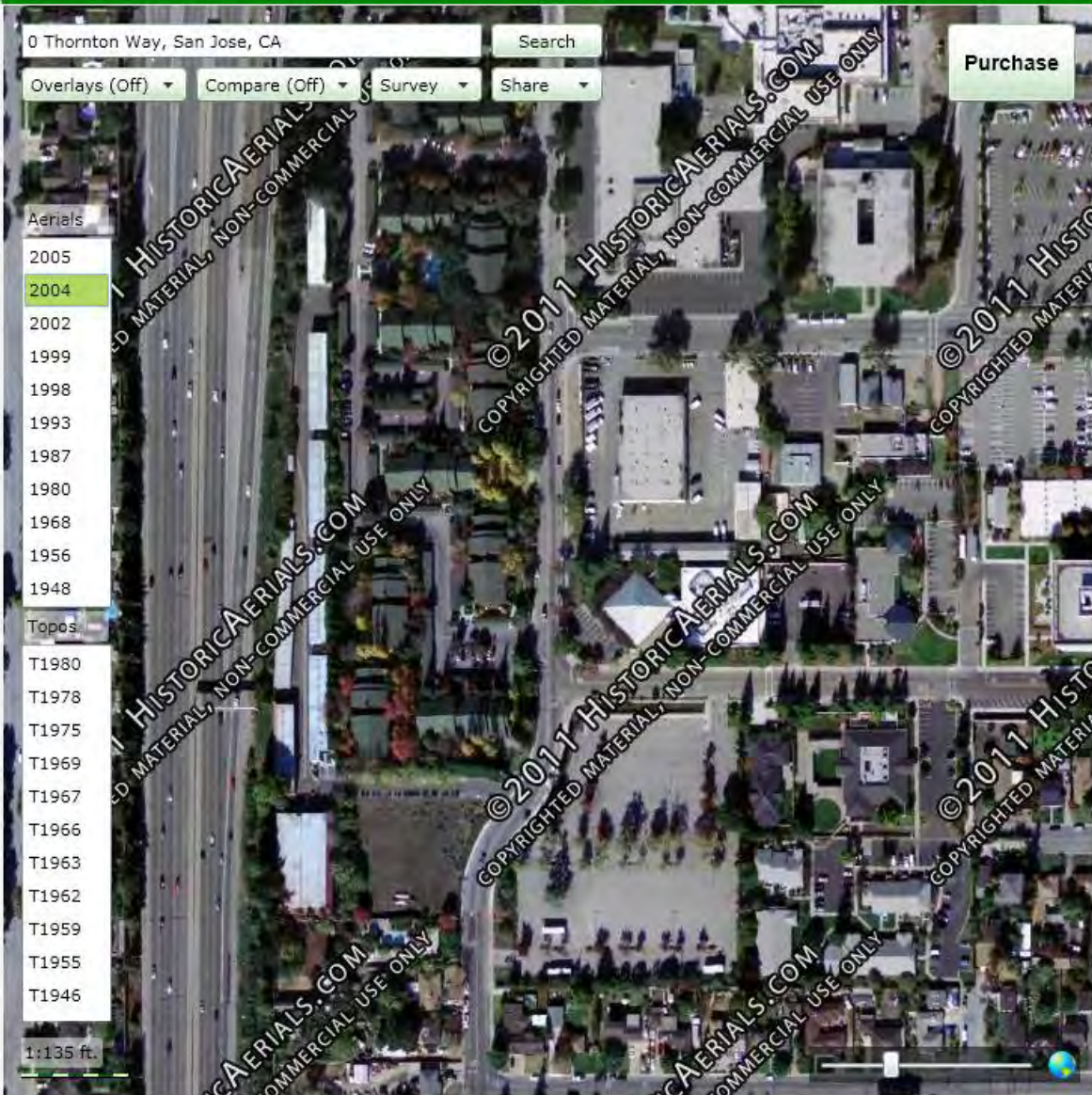
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APPENDIX C
REGULATORY RECORDS DOCUMENTATION

REGULATORY RECORDS

No regulatory records were found for this property. Records searched included, city directories, sanborn fire insurance Maps, local building department records and local fire department records.